

108TH CONGRESS
2D SESSION

H. R. 4361

To provide for the security of public transportation systems in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2004

Ms. NORTON (for herself, Mr. TURNER of Texas, Ms. LORETTA SANCHEZ of California, Mr. MARKEY, Mr. DICKS, Mr. FRANK of Massachusetts, Ms. HARMAN, Ms. SLAUGHTER, Mr. DEFazio, Mr. ANDREWS, Ms. LOFGREN, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Mr. PASCRELL, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Mr. LUCAS of Kentucky, Mr. LANGEVIN, Mr. MEEK of Florida, Mr. CHANDLER, Mrs. MALONEY, and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide for the security of public transportation systems in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Transit and Rail
5 Awareness and Investments for National Security Act of
6 2004” or the “Safe TRAINS Act”.

1 **SEC. 2. HOMELAND SECURITY PUBLIC TRANSPORTATION**
2 **GRANTS.**

3 (a) AUTHORIZATION.—The Secretary of Homeland
4 Security is authorized to make grants for the purpose of
5 improving the security of public transportation systems
6 against acts of terrorism. The grant program shall be ad-
7 ministered by the Under Secretary for Border and Trans-
8 portation Security—

9 (1) in consultation with the Director of the Of-
10 fice of Domestic Preparedness, to ensure that the
11 program is consistent with other Department of
12 Homeland Security grant programs;

13 (2) with the Assistant Secretary for Infrastruc-
14 ture Protection to ensure that grant awards are con-
15 sistent with critical infrastructure risk assessments
16 and protective priorities as they relate to public
17 transportation; and

18 (3) with the Under Secretary for Science and
19 Technology to ensure that technology aspects of
20 grant proposals are feasible and generally consistent
21 with existing technologies and standards.

22 (b) CONSIDERATIONS.—Among the considerations on
23 which grants shall be awarded are the following:

24 (1) Risk of terrorism, including threat assess-
25 ment, vulnerabilities of public transportation sys-
26 tems, potential effects of acts of terrorism against

1 public transportation systems, and past acts of ter-
2 rorism against modes of transportation.

3 (2) Merits of the proposed projects to increase
4 national security, based on a consideration of—

5 (A) threats;

6 (B) vulnerabilities;

7 (C) consequences, including human casual-
8 ties and economic impacts;

9 (D) consequence management;

10 (E) the likelihood that such projects would
11 have been pursued in the normal course of busi-
12 ness and in the absence of national security
13 considerations; and

14 (F) feasibility, based on the technical and
15 operational merits of the projects.

16 (c) ALLOWABLE USE OF FUNDS.—Grants made
17 under this section shall be used for the purposes of—

18 (1) support for increased capital investments in
19 cameras, close-circuit television, and other surveil-
20 lance systems;

21 (2) increased capital investment in command,
22 control, and communications systems, including in-
23 vestments for redundancy and interoperability and
24 for improved situational awareness, such as emer-
25 gency call boxes and vehicle locator systems;

1 (3) increased training, including for carrying
2 out exercises under section 3, and technical support
3 for public transportation employees, especially for
4 security awareness, prevention, emergency response,
5 including evacuation, and decontamination;

6 (4) expanded deployment of equipment and
7 other measures, including canine detection teams,
8 for the detection of explosives and chemical, biological,
9 cal, radiological, and nuclear agents;

10 (5) capital improvements and operating activities,
11 including personnel expenditures, to increase
12 the physical security of stations, vehicles, bridges,
13 and tunnels;

14 (6) capital improvements and operating activities
15 to improve passenger survivability in the event
16 of an attack, including improvements in ventilation,
17 drainage, fire safety technology, emergency communications
18 systems, lighting systems, passenger egress, and accessibility
19 by emergency response personnel;
20 sonnel;

21 (7) acquisition of emergency response and support
22 equipment, including fire suppression and decontamination
23 equipment; and

1 (8) expansion of employee education and public
2 awareness campaigns regarding security on public
3 transportation systems.

4 (d) ELIGIBLE RECIPIENTS.—Grants shall be made
5 available under this section directly to owners, operators,
6 and providers of public transportation systems. Owners,
7 operators, and providers of infrastructure over which pub-
8 lic transportation operates, but which is not primarily
9 used for public transportation, may also be eligible for
10 grants at the discretion of the Secretary.

11 (e) ACCOUNTABILITY.—The Secretary shall adopt
12 necessary procedures, including audits, to ensure that
13 grants made under this section are expended in accord-
14 ance with the purposes of this Act and the priorities and
15 other criteria developed by the Secretary. If the Secretary
16 determines that a recipient has used any portion of the
17 grant funds received under this section for a purpose other
18 than the allowable uses specified for that grant under this
19 section, the grantee shall return any amount so used to
20 the Treasury of the United States.

21 (f) PROCEDURES FOR GRANT AWARD.—The Sec-
22 retary shall prescribe procedures and schedules for the
23 awarding of grants under this section, including applica-
24 tion and qualification procedures, and a record of decision
25 on applicant eligibility. The Secretary shall issue a final

1 rule establishing the procedures not later than 90 days
2 after the date of enactment of this Act.

3 (g) COST SHARE.—Grants made under this section
4 shall account for no more than—

5 (1) 85 percent for fiscal year 2005;

6 (2) 80 percent for fiscal year 2006; and

7 (3) 75 percent for fiscal year 2007,

8 of the expense of the purposes for which the grants are
9 used.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary to carry
12 out the purposes of this section—

13 (1) \$1,200,000,000 for fiscal year 2005;

14 (2) \$900,000,000 for fiscal year 2006; and

15 (3) \$700,000,000 for fiscal year 2007.

16 Amounts appropriated pursuant to this subsection shall
17 remain available until expended.

18 **SEC. 3. TRAINING EXERCISES.**

19 (a) GUIDELINES.—Not later than 4 months after the
20 date of enactment of this Act, the Secretary of Homeland
21 Security shall publish guidelines for the conduct by recipi-
22 ents of grants under section 2 of appropriate exercises for
23 emergency response and public transportation employee
24 training purposes.

1 (b) PLANS.—Not later than 6 months after receipt
2 of a grant under section 2, the recipient of such grant
3 shall transmit to the Secretary its emergency response
4 plan as well as a plan for conducting exercises for emer-
5 gency response and public transportation employee train-
6 ing purposes pursuant to the guidelines published under
7 subsection (a).

8 (c) EXERCISES.—

9 (1) REQUIREMENT.—Not later than 1 year
10 after receipt of a grant under section 2, the recipient
11 of such grant shall conduct an exercise pursuant to
12 the plan for conducting exercises transmitted under
13 subsection (b).

14 (2) EXEMPTIONS.—The Secretary may exempt
15 a grant recipient from the requirement under para-
16 graph (1) if the recipient has recently conducted an
17 equivalent exercise.

18 (3) NOTICE AND REPORT.—Not later than 30
19 days after conducting an exercise under paragraph
20 (1) or as described in paragraph (2), the recipient
21 shall notify the Secretary that such exercise has
22 been completed, including a description of the re-
23 sults of the exercise and findings and lessons learned
24 from the exercise, and shall make recommendations
25 for changes, if necessary, to existing emergency re-

1 sponse plans. If the recipient revises an emergency
2 response plan as a result of an exercise under this
3 subsection, the recipient shall transmit the revised
4 plan to the Secretary not later than 6 months after
5 the exercise.

6 (d) TECHNICAL ASSISTANCE.—The Secretary shall
7 provide technical assistance in the design, preparation for,
8 and conduct of emergency response exercises.

9 (e) USE OF PLANS.—The Secretary shall ensure that
10 information submitted to the Secretary under this section
11 is protected from any form of disclosure that might com-
12 promise public transportation security or trade secrets.
13 Notwithstanding the preceding sentence, the Secretary
14 may use such information, on a nonattributed basis unless
15 otherwise agreed to by the source of the information, to
16 aid in developing recommendations, best practices, and
17 materials for use by public transportation authorities to
18 improve security practices and emergency response capa-
19 bilities.

20 **SEC. 4. SECURITY BEST PRACTICES.**

21 The Secretary of Homeland Security shall, not later
22 than 120 days after the date of enactment of this Act,
23 develop, disseminate to appropriate owners, operators, and
24 providers of public transportation systems, public trans-
25 portation employees and employee representatives, and

1 Federal, State, and local officials, and transmit to the
2 Congress a report containing best practices for the secu-
3 rity of public transportation systems. In developing best
4 practices, the Secretary shall be responsible for consulting
5 with and collecting input from owners, operators, and pro-
6 viders of public transportation systems, public transpor-
7 tation employee representatives, first responders, industry
8 associations, private sector experts, academic experts, and
9 appropriate Federal, State, and local officials.

10 **SEC. 5. PUBLIC AWARENESS.**

11 Not later than 90 days after the date of enactment
12 of this Act, the Secretary of Homeland Security shall de-
13 velop a national plan for public outreach and awareness.
14 Such plan shall be designed to increase awareness of
15 measures that the general public, public transportation
16 passengers, and public transportation employees can take
17 to increase public transportation system security. Such
18 plan shall also provide outreach to owners, operators, pro-
19 viders, and employees of public transportation systems to
20 improve their awareness of available technologies, ongoing
21 research and development efforts, and available Federal
22 funding sources to improve public transportation security.
23 Not later than 9 months after the date of enactment of
24 this Act, the Secretary shall implement the plan developed
25 under this section.

1 **SEC. 6. SECURITY PLAN.**

2 (a) REQUIREMENT.—Not later than 1 year after the
3 date of enactment of this Act, the Secretary of Homeland
4 Security, in coordination with the Secretary of Transpor-
5 tation and in accordance with the Memorandum of Agree-
6 ment executed under section 7, shall develop a strategic
7 plan for the security of the Nation’s public transportation
8 systems and transmit to Congress a report containing a
9 summary of that plan. Such plan shall—

10 (1) include a comprehensive assessment of risks
11 to the Nation’s public transportation systems, in-
12 cluding an assessment of threats of terrorist attack,
13 vulnerabilities against terrorist attack, and human,
14 economic, and national security consequences of ter-
15 rorist attack;

16 (2) take into account actions taken or planned
17 by both public and private entities to address identi-
18 fied security issues;

19 (3) describe measures for prevention, protec-
20 tion, and preparedness, including recommended ac-
21 tions and best practices (as described in section 4);

22 (4) make prioritized recommendations for im-
23 proving public transportation system security;

24 (5) identify specific actions the Federal Govern-
25 ment should take to provide increased security sup-
26 port for public transportation systems, both gen-

1 erally and in periods of high or severe threat levels
2 of alert;

3 (6) identify measures for coordinating initia-
4 tives undertaken by the public and private sectors to
5 increase security of public transportation systems;

6 (7) contain an estimate of the cost to imple-
7 ment measures, recommendations, and best prac-
8 tices, and other actions contained within the plan;

9 (8) identify milestones and timeframes for im-
10 plementing measures, recommendations, and best
11 practices, and other actions contained within the
12 plan; and

13 (9) identify methods for measuring progress
14 against the plan and communicating such progress
15 to owners, operators, and providers of public trans-
16 portation systems and to Congress.

17 (b) IMPLEMENTATION.—The Secretary shall begin
18 implementation of the plan not later than 3 months after
19 its development.

20 (c) CONSULTATION; USE OF EXISTING RE-
21 SOURCES.—In developing the plan under this section, the
22 Secretary shall be responsible for consulting with and col-
23 lecting input from owners, operators, and providers of
24 public transportation systems, public transportation em-
25 ployee representatives, first responders, industry associa-

1 tions, private sector experts, academic experts, and appro-
2 priate Federal, State, and local officials.

3 (d) **FORMAT.**—The Secretary may submit the report
4 in both classified and unclassified formats if the Secretary
5 considers that such action is appropriate or necessary.

6 (e) **2-YEAR UPDATES.**—The Secretary, in consulta-
7 tion with the Secretary of Transportation, shall update the
8 plan every 2 years, as necessary, and transmit such up-
9 dated report to Congress.

10 **SEC. 7. MEMORANDUM OF AGREEMENT.**

11 Not later than 60 days after the date of enactment
12 of this Act, the Secretary of Homeland Security and the
13 Secretary of Transportation shall execute a Memorandum
14 of Agreement governing the roles and responsibilities of
15 the Department of Homeland Security and the Depart-
16 ment of Transportation, respectively, in addressing secu-
17 rity matters for public transportation systems, including
18 the process the departments will follow to promote com-
19 munications, efficiency, and nonduplication of effort. Such
20 Memorandum of Agreement shall also establish a formal
21 mechanism to ensure coordination and the timely sharing
22 of expertise and information between the Department of
23 Homeland Security and the Department of Transpor-
24 tation, as appropriate, in public transportation security.

1 **SEC. 8. NATIONAL TRANSPORTATION SECURITY CENTERS.**

2 (a) ESTABLISHMENT.—The Secretary of Homeland
3 Security shall establish more than 1 but not more than
4 4 National Transportation Security Centers at institutions
5 of higher education to assist in carrying out this Act and
6 to conduct research and education, and to develop or pro-
7 vide professional training, including the training of public
8 transportation employees and public transportation-re-
9 lated professionals, with emphasis on utilization of intel-
10 ligent transportation systems, technologies, and architec-
11 tures.

12 (b) CRITERIA.—The Secretary shall designate the
13 Centers according to the following selection criteria:

14 (1) The demonstrated commitment of the insti-
15 tution to transportation security issues.

16 (2) The use of and experience with partnerships
17 with other institutions of higher education, Federal
18 laboratories, or other nonprofit laboratories.

19 (3) Capability to conduct both practical and
20 theoretical research and technical systems analysis.

21 (4) Utilization of intelligent transportation sys-
22 tem technologies and architectures.

23 (5) Ability to develop professional training pro-
24 grams.

25 (6) Capability and willingness to conduct edu-
26 cation of transportation security professionals.

1 (7) Such other criteria that the Secretary may
2 designate.

3 (c) FUNDING.—The Secretary shall provide such
4 funding as is necessary to the National Transportation Se-
5 curity Centers established under subsection (a) to carry
6 out this section.

7 **SEC. 9. WHISTLEBLOWER PROTECTION.**

8 (a) IN GENERAL.—No employee or other person may
9 be harassed, prosecuted, held liable, or discriminated
10 against in any way—

11 (1) because that person—

12 (A) has commenced or caused to be com-
13 menced, or is about to commence;

14 (B) has testified or is about to testify at;
15 or

16 (C) has assisted or participated in, or is
17 about to assist or participate in any manner in,
18 a proceeding or any other action to enhance public
19 transportation security; or

20 (2) because that person has refused to violate
21 or assist in the violation of any law, rule, or regula-
22 tion related to public transportation security.

23 (b) APPLICATION OF SARBANES-OXLEY ACT OF 2002
24 AMENDMENTS.—

1 (1) CIVIL ACTION TO PROTECT AGAINST RETAL-
2 IATION IN FRAUD CASES.—Section 1514A of title
3 18, United States Code, shall apply to subsection (a)
4 of this section as if—

5 (A) an act or refusal to act described in
6 subsection (a) were described in such section
7 1514A; and

8 (B) a violation of subsection (a) were a
9 violation of such section 1514A(a).

10 (2) RETALIATING AGAINST A WITNESS, VICTIM,
11 OR INFORMANT.—Section 1513(e) of title 18, United
12 States Code, shall apply to a violation of subsection
13 (a) of this section as if the violation of subsection
14 (a) were a violation of such section 1513.

15 **SEC. 10. DEFINITION.**

16 For the purposes of this Act—

17 (1) the term “public transportation employees”
18 means security personnel, dispatchers, vehicle and
19 vessel operators, other onboard employees, mainte-
20 nance and support personnel, and other appropriate
21 employees of owners, operators, and providers of
22 public transportation systems; and

23 (2) the term “public transportation systems”
24 means passenger, commuter, and light rail, including

- 1 Amtrak and subways, buses, commuter ferries, and
- 2 other modes of public transit.

